



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/509,421

08/02/2005

Motoyuki Sugiura

14974-46922

7438

24728 7590 06/23/2008
MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA, GA 30326

EXAMINER

MULLIS, JEFFREY C

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

06/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/509,421	Applicant(s) SUGIURA ET AL.	
	Examiner Jeffrey C. Mullis	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

All remaining rejections/objections follow.

Claims 15-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima (JP 2002-020576).

Patentees disclose a composition produced by polymerization of polymerizable organic peroxides in the presence of a propylene polymer is reacted with an acrylic polymer and crosslinker. Note the CAPLUS abstract. Particle sizes of the two components are 0.1-1 micron in paragraph 31. Applicants acrylic rubber monomers and percentages thereof are disclosed in paragraphs 37 and 38. The two components are reacted together with "cross linking agent" and a "bridge accelerator" encompassing applicants "co-crosslinking agent" at paragraph 43. The acrylic rubber may contain the crosslinker of the "vinyl system copolymer" (paragraph 39) such as include alkyl methacrylate at paragraph 26. Note the table on page 11 for use of "MEA" (presumably methoxyethylmethacrylate) and "AN".

No examples are present in the patent having all of applicants components present in combination in applicants amounts. However to arrive at applicants composition by selecting from the various disclosures of the reference and combining them would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in the expectation of adequate results absent any showing of surprising or unexpected results.

Applicant's arguments filed 3-21-08 have been fully considered but they are not persuasive. Fukushima discloses applicants' particle sizes explicitly. Note the Patent Abstracts of Japan abstract in this regard. Applicants acrylic rubber monomers are

Art Unit: 1796

disclosed in paragraph 37 and can be used as “two sorts or more” and discloses broad amounts encompassing the amounts required by the instant claims. Furthermore applicants amounts of each monomer are disclosed in the examples although the monomers are not present in combination in applicants’ amounts in any single example, use of such is suggested by the examples which disclose applicants amounts of individual monomers and by paragraph 37 which discloses use of “two sorts or more” of the monomers. With regard to applicants allegations of unexpected results, such must be with the closest prior art which in the instant case is Fukushima. However no data comparative to Fukushima have been presented.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Application/Control Number: 10/509,421
Art Unit: 1796

Page 4

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis
9-5pm, M-F, at telephone number 571 272 1075.

Jeffrey C. Mullis
Primary Examiner
Art Unit 1796

JCM

6-16-08

/Jeffrey C. Mullis/

Primary Examiner, Art Unit 1796